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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/824,959	04/03/2001	Yoichiro Tauchi	450100-03143	1879

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FROMMER LAWRENCE & HAUG  
745 FIFTH AVENUE- 10TH FL.  
NEW YORK, NY 10151

EXAMINER
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NGUYEN, HUY THANH

ART UNIT	PAPER NUMBER
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2616

DATE MAILED: 05/05/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/824,959

Applicant(s)

TAUCHI ET AL.

Examiner

HUY T. NGUYEN

Art Unit

2616

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-11 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-11 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 01/04/05.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_.

## **DETAILED ACTION**

### ***Claim Rejections - 35 USC § 101***

1. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

2. Claim 6 and 11 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter. Claims 6 and 11 direct to information stored on a tape. Since the stored information do not provide any functional interrelationship to the medium to access the stored information or read out the stored information, or impart to any software or hardware structural components to provide certain function that is processed by a computer The information do not make them statutory . See MPEP 2100.

### ***Claim Rejections - 35 USC § 102***

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

4. Claims 7 and 9-11 are rejected under 35 U.S.C. 102(e ) as being anticipated by Senshu et al (6,658,195) .

Regarding claims 7 and 11, Senshu teaches a magnetic-tape recording apparatus (Figs. 1-3) for recording digital data on a magnetic tape by a rotating head comprising:

first obtaining means for obtaining first-group data, including video data, audio data, or search data (Fig. 3 column 5, lines 1-15));

second obtaining means for obtaining second-group data including sub-code data related to the first-group data (Fig. 3, column 5, lines 1-15);

third obtaining means for obtaining third-group data including audio data for after-recording (Fig. 3 column 5, lines 1-15);

synthesizing means for synthesizing the first-group data and the second-group data such that they are continuous without any space disposed therebetween and for synthesizing the third-group data so as to form a gap between the third-group data and the first-group data on a track in the magnetic tape (Fig. 3, column 5; and

sending means for sending data synthesized by the synthesizing means to the rotating head in order to record the data on the magnetic tape (Fig. 3 column 5)

Method claims 9 and 10 correspond to apparatus claim 7. Therefore method claims 9 and 10 are rejected by the same reason as applied to apparatus claim 7.

Further for claim 10, Ohta as modified with Senshu teaches a program stored on a medium since Ohta and Senshu teaches that the video, audio and subcode are processed and synthesized and arranged by a controller of the apparatus

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

6. Claim 8 is rejected under 35 U.S.C. 103(a) as being unpatentable over Senshu et al (6,658,195) in view of Lee (5,940,016).

Regarding claim 8, Senshu fails to teach using MP@HL or MP@H-14 in the MPEG system for compressing the video signal.

Lee teaches using MP@HL or MP@H-14 in the MPEG system for decoding a reproduced compressed MPEG video signal. It would have been obvious to one of ordinary skill in the art to modify Ohta with Lee for using MP@HL or MP@H-14 in the MPEG system as an alternative method for compressing the video signal.

7. Claims 1 and 4-6 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ohta (6,496,646) in view of Senshu et al (6,658,195).

Regarding claims 1 and 6, Ohta discloses a magnetic-tape recording apparatus (Figs.1,3,5,8,10) for recording digital data on a magnetic tape by a rotating head, comprising:

first obtaining means for obtaining first-group data including video data, audio data, or search data;

second obtaining means for obtaining second-group data, including sub-code data related to the first-group data;

synthesizing means for synthesizing the first-group data and the second-group data such that they are continuous, on each of two sub- tracks formed with a gap sandwiched therebetween on a track in the magnetic tape (columns 7-8, Fig. 8) ; and

sending means for sending data synthesized by the synthesizing means to the rotating head in order to record the data on the magnetic tape(column 7-8, Fig. 8).

Ohta fails to teach that the video data and subcode data are continuous without any space without any space-disposed therebetween,

Senshu teaches a recording apparatus for recording the video data and subcode data without any space disposed therebetween (Video-audio sector and subcode sector) (column 7, lines 45-65) (Fig. 3) .

It would have been obvious to one of ordinary skill in the art to modify Ohta with Senshu by using a synthesizing means as taught by Senshu for synthesizing the video

data or audio data and subcode data with out any space therebetween thereby provide more space for recording main data .

Method claim 4 and 5 correspond to apparatus claim 1. Therefore, method claims 4-5 are rejected by the same reason as applied to apparatus claim 1.

Further for claim 5., Ohta as modified with Senshu teach a program stored on a medium since Ohta and Senshu teaches that the video. Audio and subcode are processed and synthesized and arranged by a controller of the apparatus .

8. Claim 3 is rejected under 35 U.S.C. 103(a) as being unpatentable over Ohta in view of Senshu as applied to claim 1 above, further in view of Oguro ( 6,301,065).

Regarding claim 3, Ohta fails to teach means for generating ID information to indicate the type of a signal. Oguro teaches a recording / reproducing apparatus for recording video, audio, subcode data on a track of a tape having an ID generating means for generating ID signal to indicate the type of signal being recorded on a track of the tape (column 8, lines 49-55).

It would have been obvious to one of ordinary skill in the art to modify Ohta with Oguro by providing the apparatus of Ohta with a ID generating means as taught by Oguro for generating ID information for indicating the type of video data thereby accurately accessing and processing the video data .

9. Claim 2 is rejected under 35 U.S.C. 103(a) as being unpatentable over Ohta in view of Senshu as applied to claim 1 above, and further in view of Lee (5,940,016).

Regarding claim 2, Ohta fails to teach using MP@HL or MP@H-14 in the MPEG system for compressing the video signal.

Lee teaches using MP@HL or MP@H-14 in the MPEG system for decoding a reproduced compressed MPEG video signal (column 1 column 6, lines 8-25). It would have been obvious to one of ordinary skill in the art to modify Ohta with Lee for using MP@HL or MP@H-14 in the MPEG system as an alternative method for compressing the video signal.

### ***Conclusion***

10. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Ohkuma teaches a recording/ reproducing apparatus for recording video, audio and subcode data for a high definition video signal and standard definition video signal .

11. Any inquiry concerning this communication or earlier communications from the examiner should be directed to HUY T. NGUYEN whose telephone number is (571) 272-7378. The examiner can normally be reached on 8:30AM -6:00PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Andrew Faile can be reached on (571) 272-7375. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.



Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

H.N

  
HUY B. YEN  
PRIMARY EXAMINER